

1 mentioned that to me. And the reason -- now I remember.
2 The reason that I would talk to her was we were coordinating
3 when the independent counsel could interview her. That was
4 the nature of our talks.

5 Q Did there come a time where you learned that Ms.
6 Milstein had told Mr. Breen what Mr. Easton may have been
7 doing?

8 A No. And I had contact with her, but we -- she
9 actually, Ms. Milstein became what Cynthia was doing, keying
10 in the computer. But never, no. I think I was -- to me the
11 first time was what I read in the independent counsel's
12 report.

13 Q Did you ever talk to Mr. Breen about what --
14 strike that.

15 After you had learned from Ms. Hamilton that she
16 had talked to Mr. Breen, did you ever talk to Mr. Breen
17 about that?

18 A I recall a conversation in which Ms. Milstein and
19 Mr. Breen were present. I think it was around on the
20 preparation of the independent counsel's report and
21 everything that is coming out. I'm just mind bundled,
22 dumbfounded. I'm -- I mean, can you -- and I'm having a
23 casual conversation after, you know, another day ended, four
24 rounds went by, everything is fine. And now we just have to
25 look for -- and we're waiting for the results to see what we

1 got, who else -- you know, is anyone taking our markets, how
2 it's going.

3 And I remember asking why would he do this? I
4 mean, it was so simply. Why did he -- I like to use an
5 analogy, you know, why try to throw the crumbs of the
6 cookies under the carpet. I mean, we are all grown ups.

7 And I remember very clearly Quentin's, with Mrs.
8 Milstein, it was in the small office, saying, "For too long
9 we have been looking the other way at things that Terry has
10 been doing. For too long we have been -- we have been
11 looking the other way." But that's the only conversation we
12 ever had.

13 Q And this was done prior to the -- I mean, this
14 conversation was prior to the completion --

15 A Exactly.

16 Q -- of the independent counsel report?

17 A Yes.

18 Q But after --

19 A It was in the midst of the --

20 Q But after February 6th?

21 A Yes.

22 Q So it was somewhere in that time frame?

23 A Yeah.

24 Actually, I think that Mr. Breen had just been
25 interviewed when we had that conversation. And, of course,

Lamoso II

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In Re Application of: :

WESTTEL SAMOA, INC., : WT Docket No. 97-199
and WESTTEL, L.P.,
For Broadband Block C :
Personal Communications
Systems Facilities :

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: Honorable Arthur I. Steinberg

Wednesday, December 10, 1997

Washington, D.C.

Deposition of

JAVIER O. LAMOSO

a witness, called for examination by counsel on
behalf of the Quentin L. Breen, pursuant to
notice, taken in the law offices of BELL, BOYD &
LLOYD, 1615 L Street, N.W., Suite 1200,
Washington, D.C. 20036-5610, beginning at 12:15
o'clock p.m., before William L. Finley, a
Verbatim Reporter and Notary Public in and for
the District of Columbia at Large, when there
were present on behalf of the respective
parties:

1 when you became aware that there was an
2 extraordinary bid on behalf of PCS 2000
3 submitted to the FCC?

4 A Yes.

5 Q And how did you become aware of that?

6 A By a telephone call from Mr. Anthony
7 Easton.

8 Q And he initiated that call to you?

9 A Yes. I'm very positive he did.

10 Q Were you contacted by any media
11 representative that day?

12 A Simultaneously of his call. I say I
13 literally was hanging up a phone and ringing in
14 the other one.

15 Q And you were hanging up from Mr. Easton
16 when the other one came in?

17 A Yes.

18 Q Now, in your telephone conversation
19 with Mr. Easton, what did he tell you about this
20 bidding error?

21 A He told me that an error had appeared
22 in the FTP server of the FCC auction. There
23 must have been an error on their side, on the

1 FCC side, regarding a bid. I'm not sure if he
2 specified what bid it was. I remember me
3 asking, what was the error? Well, it appears
4 like another zero. I continued -- And then he
5 said, "And you should be accepting calls from
6 the media." I said, "Well, what's our position
7 in that place?" And I said, "Well, explain it
8 that we have records that show that we uploaded
9 the correct amount, the intended correct amount,
10 which was the minimum bid." I'm not sure if it
11 specified what the minimum bid was. And I asked
12 him, "Well, could you fax me that?" I requested
13 that he would fax me that documentation,
14 basically so that when these calls come up, I
15 had something in my hands that I could speak
16 about. And that was pretty much the gist of the
17 conversation, you know.

18 Q So, when you completed your phone call
19 with Mr. Easton, you had been given the
20 impression by him that there was a problem at
21 the FCC's end with regard to this bid?

22 A He was very clear that it must have
23 been on the FCC side, because we, as he said

1 it -- meaning we had entered the right amount,
2 the correct amount, and we had the documentation
3 to prove it.

4 Q Did Mr. Easton, in the course of his
5 conversation with you, indicate whether he had
6 spoken with PCS 2000's communications counsel on
7 this matter?

8 A No. No, he has not contacted -- He
9 didn't mention it. And I'm trying to think if
10 he mentioned having talked to -- at the FCC, and
11 I don't recall that, either. We talked about --

12 Q So you don't recall whether he had told
13 you whether he had any communication with the
14 Federal Communications Commission on --

15 A Not in that conversation.

16 Q Okay. That day, did you have occasion
17 to speak with Michael Sullivan of the law firm
18 of Wilkinson, Barker, Knauer & Quinn?

19 A That same day?

20 Q Yes.

21 A I think I did.

22 Q Was Mr. Easton also a party to that
23 call?

1 best of my recollection, I don't believe that we
2 were blaming the FCC for an error.

3 Q Prior to the submission of this request
4 for waiver, had the subject matter been
5 discussed with counsel?

6 A Prior?

7 Q Prior to, yes.

8 A Yes, with Wilkinson Barker.

9 Q Had it been discussed with Mr. Easton?

10 A Yes. He participated in all of those
11 discussions, I believe.

12 Q Did Mr. Martinez participate in any of
13 those discussions?

14 A I'm pretty sure he did. Not all of
15 them, but on and off; sure.

16 Q Did Mr. Breen participate in any of
17 those discussions?

18 A He was there. He was accessible. He
19 had access to the information that was going on.

20 Q Mr. Lamoso, what had been -- What was
21 the reason for your travels to San Mateo,
22 California on either the 25th or 26th of January
23 1996?

1 something of very importance to the board and to
2 our investors. And I'm not sure who requested
3 it from Mister -- someone at the board meeting
4 -- that Mr. Easton make a presentation of what
5 was his interpretation of the events that had
6 occurred that week, the prior week.

7 Q When you talk about the lawyer from
8 Wilkinson Barker, would that have been Mr.
9 Movshin?

10 A Larry Movshin, yes.

11 Q In the course of Mr. Easton's
12 presentation, did he mention Ms. Hamilton?

13 A Yes, he did.

14 Q And was there anything that he said
15 about Ms. Hamilton that caused you to believe it
16 would be critical to contact Ms. Hamilton?

17 A He gave a collage of explanations,
18 among which were the ones that -- the innuendo
19 -- I have to explain it this way, because it
20 wasn't clear. Still today, it won't be clear.
21 It will never be clear. I don't think Mr.
22 Easton can explain it to me clearly, even today.
23 But among that collage of explanations, one of

1 them was that Ms. Hamilton perhaps had made the
2 error and had left the building, the office.
3 That's pretty much the best I can put it.

4 Q When you speak of a collage of --

5 A Possibilities?

6 Q Possibilities. It was a collage of
7 possibilities; Mr. Easton wasn't admitting to
8 any one particular cause of an error or another;
9 is that correct?

10 MR. GORDIN: I object to the leading
11 nature of the question. You may answer it.

12 THE WITNESS: It wasn't very
13 convincing. That's all I can tell you.

14 BY MR. CARROCCIO:

15 Q So there was no one argument?

16 A No one explanation that would stick out
17 as the correct one.

18 Q In that presentation, was one of the
19 possibilities presented by Mr. Easton an error
20 on the part of the Federal Communications
21 Commission?

22 A Correct.

23 Q Did anybody -- Did you take that

1 Q At some point in early February of
2 1996, you were contacted by Cynthia Hamilton.
3 Is that your testimony?

4 A That's correct.

5 Q How were you contacted?

6 A A phone call at my private number at my
7 office.

8 Q After you answered the call to your
9 office, can you remember how the conversation
10 opened?

11 A It was, "Javier, you're moving fast,
12 but you're not getting the whole story, and
13 Price Waterhouse is not going to get the whole
14 story of what is happening." To which I asked,
15 "What do you mean?" She said, "Well, Terry is
16 manipulating the information." I'm not sure if
17 he was manipulating. That's my word. But,
18 "directing the Price Waterhouse, and you're not
19 going to get the whole story of what happened.
20 And I can tell you that what he has been telling
21 me was not what happened," to which I
22 immediately -- I was pretty much dumbfounded and
23 asked, "What did happen, Cynthia?" And she said

1 -- She explained very quickly -- organized.
2 When I say quickly, I don't mean to say that she
3 missed a point of this, but very fast how Mr.
4 Easton had recreated -- The document I had was
5 not the real one. He had recreated the Control
6 P or whatever it was, the screen preview. I
7 don't remember which are the two forms. He had
8 not checked -- He had not -- He had been too
9 arrogant for his own good kind of thing, so he
10 did not prepare it the night before. He had
11 come late that day, so he was too close; there
12 was a very too close window for the submission.
13 What else did she say? "And I have contacted
14 the FCC on that matter." Oh, no. And what
15 keyed me was, "And I have the original. I have
16 the original of what you have." To which I
17 immediately said, "Could you fax that to me?"
18 And she explained that she would be happy to;
19 and also the declaration. But I was more
20 interested in the actual document, the document
21 that she had that she told me over the phone had
22 the initials and the date and the time with the
23 actual \$180 million bid on it. She explained,

1 "Well, I don't have a fax here, but I will go to
2 Kinko's. That will take me five minutes." I
3 said, "Perfect. Fax it directly to Mr.
4 Martinez's office. This is the fax number," and
5 I gave her the fax number, "because I'm going to
6 be over there across the street right now." And
7 the way we left that conversation was, "Cynthia,
8 why do you contact me?" I think I thanked her.
9 But I said, "Why do you contact me now?" And
10 she said, "I wasn't sure what side were you on."
11 And I remember being very -- not with her, but
12 within me, being very upset, "What do you mean,
13 what side am I on?" She said, "Well, just a few
14 days before, I saw an invitation from Mr.
15 Martinez to have dinner that same week with Mr.
16 Easton." I don't remember when it was. "And,
17 since you're so close to Mr. Martinez" -- And I
18 said, "Thank you," and, "I'll call you back,"
19 and that's how we left it.

20 Q Now, did she indicate in the course of
21 that conversation that she had provided any
22 material to the Federal Communications
23 Commission?

1 leave of absence. That's what we were trying to
2 see if he would on his own come to that
3 conclusion.

4 Q Was Mr. Breen on that conversation?

5 A Yes.

6 Q What did Mr. Breen say?

7 A To my best recollection, I don't think
8 Mr. Breen said anything.

9 MR. CARROCCIO: If we could, I would
10 like to take a 10-minute break at this point.

11 (Brief recess.)

12 BY MR. CARROCCIO:

13 Q Mr. Lamoso, earlier, I had indicated
14 there was a point that I wanted to come back to.
15 We had been discussing the telephone conference
16 call of January 24, 1996 among you, Mr.
17 Martinez, Mr. Easton, Mr. Breen and others. In
18 the course of that telephone conversation, did
19 Mr. Martinez ask Mr. Easton to provide a written
20 report?

21 A Correct.

22 (The item referred to below was
23 marked for identification as

1 into a WordPerfect document here, because, often
2 times, when you download things from the FCC, it
3 cuts off part of the material on the right hand
4 side. So the second page is a complete
5 depiction of what you would see if you were
6 looking at it on your computer screen.

7 BY MR. CARROCCIO:

8 Q Mr. Lamoso, I bring this document to
9 your attention, Exhibit No. 5, in light of your
10 deposition transcript, page 38, and specifically
11 line 23 --

12 A 38, line 23?

13 Q Page 38, line 23, please -- in which
14 you indicate that you had this conversation with
15 Ms. Milstein and Mr. Breen on a day after four
16 rounds had gone by.

17 A That was -- I was explaining a -- or
18 trying to explain that it was after a long day.
19 It seemed like a long day. It could have been
20 less rounds. I cannot precise when that
21 conversation happened. But I think it happened
22 closer to when the independent counsel report
23 was being prepared, and, at that time, I don't

1 think there were four rounds. So I want to
2 correct myself. I mentioned four rounds -- and
3 I did mention four rounds, but I was just -- We
4 were waking up at 5:00 o'clock in the morning,
5 and that's really what I intended. It's not a
6 -- What I'm trying to say, counsel, is, it's not
7 a good way to try to date when that conversation
8 happened, by rounds.

9 Q That's fair enough. But it's also a
10 clear indication that it took place after the
11 telephone conversation of the 24th of January
12 1996.

13 A There is no doubt in my mind.

14 Q And certainly was not part of that
15 conversation.

16 A No.

17 Q On page 39 of your deposition
18 transcript, there is a question and answer
19 exchange beginning around line 13 where you and
20 the question seem to be talking over one
21 another. You indicate that it was after
22 February 6th, I believe line 20 and your answer
23 in 21, and sometime around the independent

1 counsel report.

2 A I'm sorry; are we talking about --

3 Q Is that correct?

4 A Yes, that's correct.

5 Q Mr. Lamoso, can you recall when
6 independent counsel was retained by PCS 2000?

7 A Very quickly after the February 6th --
8 is that what we're using, date -- call from
9 Cynthia Hamilton.

10 Q And was it before or after you had gone
11 to San Mateo? Well, excuse me. Let me back up
12 on that for a moment, please. Did there come a
13 time after you were contacted by Ms. Hamilton
14 that you became more actively involved in the
15 bidding process?

16 A Correct.

17 Q And did that involve your moving to San
18 Mateo temporarily?

19 A Correct.

20 Q And can you remember approximately when
21 you made that move?

22 A I think that same night. I'm almost
23 sure that it was, you know, after that morning

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In Re:)
) Investigation
WESTTEL, L.P,)
WESTTEL SAMOA, L.P.)

Deposition of ROSALIND MAKRIS, taken on behalf of the
Federal Communications Commission, at 4000 South El Camino
Road, Villa Hotel, Room 824, San Mateo, California on
Thursday, February 6, 1997, before Margaret Harris, Notary
Public.

APPEARANCES

On behalf of the Federal Communications Commission:

JOSEPH PAUL WEBBER, Esq.
Federal Communications Commission
Wireless Telecommunications Bureau
2025 M. Street, N.W.
Washington, D.C.
(202) 418-1317

On behalf of the Deponent:

ROSALIND MAKRIS, Pro Se
55 Fairmount Avenue
Apartment 303
Oakland, California

1 specifically to get a check or to clean out her desk or
2 something like that.

3 Q Did you actually go into Mr. Breen's office?

4 A Yes.

5 Q And it was just the three of you?

6 A Right, or whatever office -- there were three of
7 us in an office at that time.

8 Q What did Ms. Hamilton have to say to Mr. Breen, if
9 anything?

10 A She -- the only thing I think I can remember
11 specifically is that she told him that Terry had falsified
12 records, had falsified whatever these -- whatever this was.

13 Q Are you done with your answer?

14 A Yeah, for now.

15 Q Did Mr. Breen seem surprised by this?

16 A No.

17 Q What was his reaction?

18 A Sort of lack of surprise, it was just sort of --
19 not something that he was necessarily expecting to hear, but
20 sort of he wasn't surprised, he didn't seem surprised.

21 Q How long did this conversation last in Mr. Breen's
22 office, or in the office with the three of you?

23 A No more than 15 minutes, probably not even that
24 long.

25 Q Were Ms. Hamilton's words clear or was what she

1 was trying to convey clear?

2 A It was very -- she was very specific in that she
3 told Quentin that Terry had falsified whatever these records
4 were. She may have mentioned the thing about the zeroes,
5 I'm not sure if that's my input, but that's all I remember,
6 you know, about the technical part of it. But, she was very
7 clear telling Quentin that Terry had falsified that, I
8 remember that word. And she very probably used the word
9 "lied".

10 Q Do you recall if she mentioned anything about the
11 falsified documents being sent to the FCC or the Federal
12 Communications Commission?

13 A I'm pretty sure she didn't.

14 Q She didn't?

15 A I walked out of there with a conscious thought
16 that there was something she didn't tell him, and that was
17 real clear in my mind, and I'm pretty sure that that was it.

18 Q Did she say what Mr. Easton had done with the
19 falsified documents?

20 A If she did, it wasn't something that I understood,
21 or maybe the fact that I didn't understand it is why I don't
22 remember.

23 Q Did you ever discuss with her, after this meeting
24 in Mr. Breen's office, whether there was something she
25 didn't tell Mr. Breen?

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In Re:)
) Investigation
WESTTEL, L.P,)
WESTTEL SAMOA, L.P.)

Deposition of RONIT MILSTEIN, taken on behalf of the
Federal Communications Commission, at 4000 South El Camino
Road, Villa Hotel, Room 824, San Mateo, California on
Thursday, February 6, 1997, commencing at 12:55 p.m. before
Margaret Harris, Notary Public.

APPEARANCES

On behalf of the Federal Communications Commission:

JOSEPH PAUL WEBBER, Esq.
Federal Communications Commission
Wireless Telecommunications Bureau
2025 M. Street, N.W.
Washington, D.C.
(202) 418-1317

On behalf of the Deponent:

ANGELA N. WATKINS, Esq.
Wiley, Rein & Fielding
1776 K Street Northwest
Washington, D.C. 20006
(202) 828-4971

1 the issue. He was fairly calm, Mr. Breen is usually calm,
2 he isn't somebody who tends to get very emotional about
3 things. He's much more the type who will --

4 MR. WEBBER: Can we go off the record a second.

5 (Off the record.)

6 MR. WEBBER: Back on the record.

7 THE WITNESS: Mr. Breen is much more the kind of
8 person who will sit down and try and figure out what has to
9 happen next, what needs to be done, try and sort of get
10 things organized as far as, you know, how things need to
11 proceed at that point.

12 BY MR. WEBBER:

13 Q Did you overhear any discussion in which Mr. Breen
14 was a party where how the over-bid occurred was the topic of
15 discussion?

16 A I was not a party to any of those conversations.
17 There obviously were a lot of conversations, most of them
18 were closed door conversations.

19 Q Did you have a discussion with Mr. Breen regarding
20 Ms. Hamilton's allegations?

21 A Yes, I did.

22 Q What did he say about that?

23 A Well, I told him that it was Cynthia's belief that
24 Mr. Easton had made the error and had been covering it up.
25 And his reaction was that he -- that was obviously the issue

